

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 28, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

HAWAII

Mutual Cancellation of General Lease No. S-5965, Chin A. Ho for Intensive
Agriculture Purposes, North Hilo, Hawaii, Tax Map Key: 3rd/3-4-03:11, 38 & 39.

APPLICANT:

Chin A. Ho, single, as tenant in severalty, whose mailing address is P.O. Box 975
Pepe'ekeo, Hawaii 96783.

LEGAL REFERENCE:

Section 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands Kaiaakea, North Hilo, Hawaii, identified by Tax Map Key:
3rd/3-4-03:11, 38 & 39, as shown on the attached map labeled Exhibit A.

AREA:

66.07 acres, more or less.

ZONING:

State Land Use District:	Agriculture/
County of Hawaii CZO:	20-acre agriculture (Ag-20)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

CURRENT USE STATUS:

Encumbered by General Lease No. S-5965, Chin A. Ho, Lessee, for intensive agriculture purposes. Lease to expire on January 31, 2039.

Original term of 30 years, commencing on February 1, 2009 and expiring on January 31, 2039. There are no rental reopenings scheduled.

ANNUAL RENT:

\$6,374.00 per annum

REMARKS:

On November 13, 2008, on the Hamakua lanai of the State building in Hilo Hawaii, General Lease No. S-5965 was awarded at public auction to Chin A. Ho, the sole bidder, for the upset price of \$6,374.00.

Due to the current severe economic conditions and a diminishing market, the Lessee has been unable to finance the improvements necessary to develop and maintain a successful farm operation.

In a letter dated May 28, 2009 (Exhibit B), the Lessee explained that as a result of the rising cost of fertilizers, fuel and a diminishing market demand, they are no longer able to proceed with their business venture.

In an effort to avoid cancellation of GL S-5965, staff worked with the Lessee in locating a qualified person or persons to assign over the lease. However, no suitable candidates were found and the Lessee informed staff to proceed with the cancellation. As a result of these efforts, staff is recommending the Board set the cancellation date effective July 31, 2009.

Staff has reviewed the lease account. The Lessee is current with liability insurance. The Lessee currently owes rent for the time period 8/01/09 through 1/31/10. A time deposit account in the Bank of Hawaii is securing a bond equal to twice the annual rent. There are no outstanding rental reopening issues.

As a result of the Lessee having not made any improvements to the land, staff is recommending the Board waive the Phase I Environmental Site Assessment requirement as described in paragraph 55 of the lease agreement.

Staff is recommending the Board authorize the mutual cancellation of General Lease No. S-5965, Chin A. Ho, Lessee.

RECOMMENDATION: That the Board:

1. Authorize the mutual cancellation of General Lease No. S-5965, Chin A. Ho, Lessee, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current mutual cancellation lease document form, as may be amended from time to time;
 - B. The effective date of cancellation shall be July 31, 2009;
 - C. Waive the Phase1 Environmental Site Assessment requirement (par.55);
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.


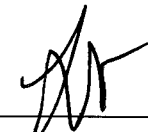
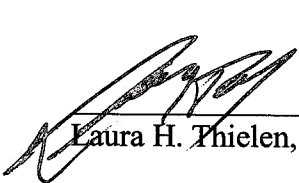
Respectfully Submitted,



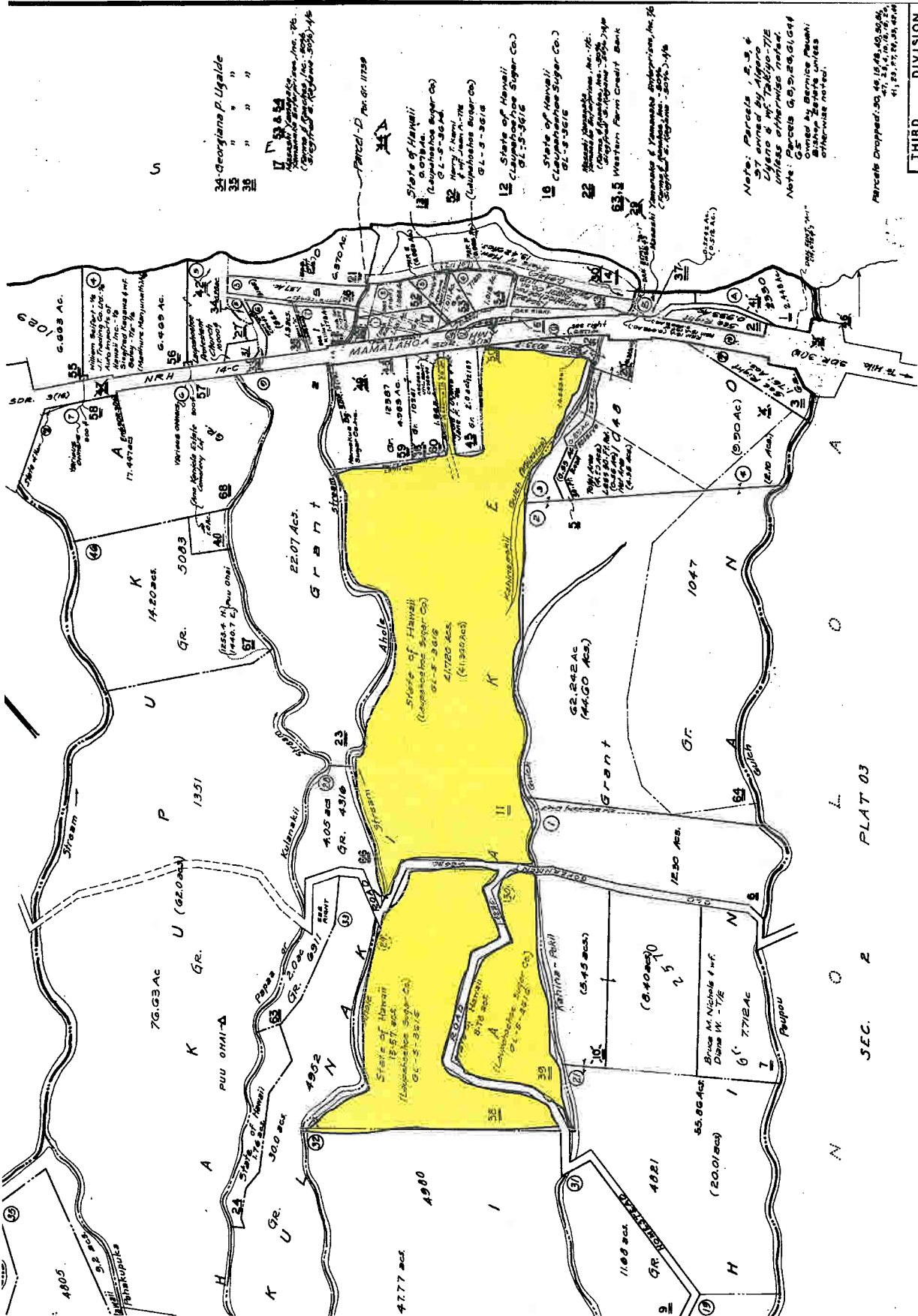
Gordon C. Heit
Land Agent



APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



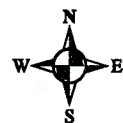
THIRD		DIVISION	
ZONE	SEC.	PLAT	
3	4	03	
CONTAINING		PARCELS	

THE

Kaiaakea Lease Parcel



0 255 510 1,020 1,530 2,040
Feet



Chin Ho
P O Box 975
Pepeekeo, Hawaii 96783
(808) 756-1222

RECEIVED
LAND DIVISION
HONOLULU, HAWAII
2009 MAY 28 A 11:07

May 28, 2009

Re: TMK 3rd -3-4-03:11 38, 39

To whom it may concern at the Dept. of Land and Natural Resources

I Chin Ho, would like to request for your sincere help on the cancellation of the agricultural land lease which I had won on the auction bid in January of 2009 on the location of Kaiaakea N. Hilo, TMK 3rd -3-4-03:11,38.39 consisting approximately 66.07 acres of land. Please return my bid amount of \$3,822.28 and the performance bond of \$12,748.00

Due to the difficult situation of today's economy, my family and I are having a difficult time and would not be able to continue in the farming business. In addition, the crops are terribly low on productions. Fertilizers and fuel prices are extremely high and marketing our crops are real low in prices, with the effected of foreign produce competitions. As a result, my family and I would not be able to take the Kaiaakea Lease.

Thank you very much for your help, should you have any questions or required additional information, please do not hesitate to contact me.

Sincerely,

Chin Ho